

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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KEVIN LOWE,

Plaintiff,

23-CV-1593 (JPC) (OTW)

-v-

**ORDER**

U.S. DEPARTMENT OF JUSTICE OFFICE OF  
INFORMATION POLICY,

Defendant.

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**ONA T. WANG, United States Magistrate Judge:**

*Pro se* Plaintiff Kevin Lowe (“Lowe”) seeks documents from the U.S. Department of Justice under FOIA, under request numbers EOUSA-2017-003861 and EOUSA-2018-003861. (ECF 1). It has come to the Court’s attention<sup>1</sup> that this case may seek the same FOIA relief that Lowe sought in an earlier-filed, now-closed action, *Lowe v. United States*, 18-CV-898 (“Section 2255 Case”), in which he sought to vacate his criminal conviction.<sup>2</sup>

From a review of the docket in the Section 2255 Case, it appears that Lowe sought – and received at least some – records under FOIA relating to his criminal trial in support of his Section 2255 petition. It is not clear, however, whether the FOIA production from that case is complete, (*see* Section 2255 Case, ECF 52, noting that the government is “still in the process of

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<sup>1</sup> In his Consent to Electronic Service filed in this case, (ECF 15), Lowe also referenced *Lowe v. United States*, 18-CV-898, and his earlier criminal case, *United States v. Lowe*, 14-CR-55.

<sup>2</sup> In *United States v. Lowe*, 14-CR-55, Lowe was convicted after trial and sentenced to 144 months’ imprisonment for conspiracy to distribute oxycodone. Lowe’s conviction was upheld on appeal. *United States v. Lowe*, 689 F. App’x 26 (2d Cir. 2017). Lowe filed a motion to vacate his conviction under 28 U.S.C. § 2255, which Judge Schofield denied. *Lowe v. United States*, 18-CV-898. Perhaps unaware that his case had been closed, Lowe continued to file letters to the Court regarding the same two EOUSA numbers. (*See* Section 2255 Case, ECF 53, 55).

responding to [Lowe's FOIA requests]"), and whether Lowe is seeking to litigate his old FOIA requests or seek new information.<sup>3</sup>

Accordingly, the parties are directed to meet and confer, and file the following letters **by July 26, 2023**:

- Lowe is directed to explain whether the relief he is seeking is the same as that of his FOIA requests in the Section 2255 Case.
- Defendant is directed to provide an update regarding the status of Lowe's FOIA requests, since its September 30, 2020, letter. (Section 2255 Case, ECF 52).

Defendant is directed to serve copies of this Order on Lowe and to file proof of service of the same on the docket.

**SO ORDERED.**

Dated: June 27, 2023  
New York, New York

s/ Ona T. Wang

**Ona T. Wang**  
United States Magistrate Judge

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<sup>3</sup> Judge Schofield directed that "the Court expects that he will communicate directly with the EOUSA FOIA Office regarding his requests." (See Section 2255 Case, ECF 52). Judge Schofield further advised Lowe that "if it necessary to litigate any *future* FOIA request, Petitioner is advised that he may file a new civil FOIA action." (*Id.*) (emphasis added).